



AGENDA

REGULAR MEETING LA JUNTA CITY COUNCIL
La Junta, Colorado
May 15, 2017
7:30 PM
Council Chambers
Municipal Building
601 Colorado Avenue

CALL TO ORDER (Mayor)

PLEDGE OF ALLEGIANCE (Mayor)

INVOCATION (Council Member Goodwin)

ROLL CALL (City Clerk)

Council Members

Supervisors

Others

Velasquez
Goodwin
McKenzie
Horner
Pruyn
Vela
Eckhart

MINUTES OF PREVIOUS MEETING (Mayor) (Action)
Regular Meeting May 1, 2017

PROCLAMATION – ARBOR DAY (Mayor)

CITIZEN PARTICIPATION FOR NON AGENDA ITEMS ONLY *(10 minute time limit per person)*

REPORTS

- A. City of La Junta Monthly Financials (Rick Klein) (Information)
- B. Tourism Board – Chamber of Commerce (Rick Klein) (Report)

NEW BUSINESS

- A. Application for Renewal of a 3.2% Beer on Premises Liquor License by WKRP Colorado LLC, d/b/a Pizza Hut, 402 E 1st Street (City Attorney) (Action)
- B. A Resolution Regarding Service Plan for La Junta Health Service District (City Attorney) (Action)
- C. A Resolution to Authorize the Receipt of Real Property to be Transferred to the City (City Attorney) (Action)
- D. A Resolution of the City Council of the City of La Junta, Colorado Approving the Settlement of Certain Litigation between the City of Lamar and the Arkansas River Power Authority (City Attorney) (Action)
- E. County Board of Commissioners – Old Southeast Colorado Power yard
- F. Committee/Board Reports

G. City Manager's Comments

H. City Attorney's Comments

I. Governing Body's Comments

ADJOURN

CITY COUNCIL MEETING – May 1, 2017

STATE OF COLORADO)
COUNTY OF OTERO) SS
CITY OF LA JUNTA)

CALL TO ORDER: The regular meeting of the City Council of the City of La Junta, Colorado, was called to order by Mayor Lynn Horner on Monday, May 1, 2017, at 7:30 p.m. in the Council Chambers of the Municipal Building.

PLEDGE OF ALLEGIANCE: The Mayor led everyone in the Pledge of Allegiance.

INVOCATION: The Mayor gave the invocation.

ROLL CALL: The following Council Members were present:

Betty Velasquez, Ward 1
Jim Goodwin, Ward 1
Frank McKenzie, Ward 2
Lynn Horner, Mayor
Jeffri Pruyn, Ward 2
Scott Eckhart, Ward 3

Absent: Edward Vela, Ward 3

Also present: Rick Klein, City Manager
Bill Jackson, Asst. City Manager
Phil Malouff Jr, City Attorney
Melanie Scofield, City Clerk
Darren Adame, Director of Engineering
Brenda Tierney, CDOT Bustang Outrider
Tracy Taullie, 4 College Ct
Martha Mondragon, 423 Lacey Ave
Dennis Golding, 1809 Colorado Ave
Sara Kelley, Casa del Sol
Beverly Babb, 1120 W. 12th St
William Macdonald, 706 Raton Ave
Doris Gumke, 1312 Adame Ave
Sarah Gumke, 1314 Adams Ave
Paul Velasquez, 1313 Bradish Ave
Cheryl Lindner, 16 E. 22nd St
Candi Hill, La Junta Tribune Democrat

Bustang Outrider Service. Brenda Tierney with the Colorado Department of Transportation gave a presentation about Bustang Outrider which is the re-branding of the current intercity bus rural region. (Presentation is attached)

MINUTES OF PREVIOUS MEETING: Mayor Horner asked if there were any corrections to the minutes of the Regular City Council Meeting of April 17, 2017. Hearing none, the Mayor declared the minutes approved as published.

CITIZEN PARTICIPATION FOR NON-AGENDA ITEMS (10 minute time limit per person):

1. Dennis Golding, 1809 Colorado Avenue: I read in the paper about a licensing/registration for rentals and I was wondering if there was a time to answer some questions as to what the goal of the program will be.

Mayor Horner: We have some written material in draft form that I'd be glad to share with you. It's by no means a final **assessment** but it's things we're working on. We feel we need to have some very

basic guidelines for rental property. We've had some people come to us who have issues with landlords that shouldn't be issues with their landlord. The idea with the rental property is to have basic concepts of what the maintenance and upkeep should be.

Dennis Golding: Will this be a code you folks vote on or the people will vote on?

Mayor Horner: It will be in the form of an ordinance and a registration form we'll eventually vote on.

Dennis Golding: As a property owner and taxpayer of La Junta, in the past I've done my best job to maintain my trees and take care of them. I have participated in the City's Tree Program. This latest storm we had caused havoc with the trees. I was out yesterday and today dealing with those branches. My concern is that I've seen in the past, the City has gone in using taxpayers' dollars to help clean up different things of property owners who are negligent. Maybe I'm wrong; maybe there was some kind of charge to the homeowner. In doing the work today, I've had mixed comments from people. I know a lot of people are just pushing the branches out into the street and their hope is and they've heard that the City is just going to come clean them up. As a responsible taxpayer, at least let us know what the guidelines are. I think it's the property owners responsibility to do that and not the City. I would like the City to use my tax dollars in other ways, like fix the streets and potholes and stuff. Do something good for all of us and not just help out the delinquent property owners.

City Manager Klein: Dennis on those ones where we go in and chop them out of the Right-of-Way after that, we charge the property owner. On this storm, just like in 2006, 1997 and 1991, in 1991 we had to have the National Guard come in and help clean the community. This storm isn't as bad as some of those other ones. We are making one round through to get them off the Right-of-Way because people are just throwing them out there. I did stop everybody from going out to the tree dump.

Dennis Golding: I do appreciate you opening up 3rd and Adams.

City Manager Klein: After we make this one sweep through then we're done because a lot of these are coming out of your backyards.

Dennis Golding: I guess the next time I won't spend my effort and time to. . . . I'll just push them out for the City to do it.

City Manager Klein: What I'm trying to do is get people to hopefully take them over to Adams.

Dennis Golding: They're pushing them from their backyards all the way to the front street.

City Manager Klein: Some people don't have trailers though.

Dennis Golding: But there's people in this community who are struggling and would like to do some extra work and they can help by volunteering or for a small fee help somebody out. But when the City jumps in there and does it, they just say they're not interested in paying somebody to go to the dump because the City's going to do it. I'm frustrated that I do my part and I pay taxes. Certainly, certain people need the help and I think that's why we had La Junta Cares and different organizations for people who really do need the help. But I think there's a lot of property owners that own more than one property. I know of one specifically because they were right there to where I was working today and they're just pushing it to the streets and letting the City take care of it because they don't want to spend the money to do it and so my tax money goes to do it. I'm not real pleased with that.

2. Cheryl Lindner, 16 E. 22nd Street: To follow Dennis, there is conversation out there that if you put those tree limbs in the street the City will come and pick them up. If that's not the plan, then you might want to give some clarification. Also, if you could give us an idea where we're at on the

La Junta Comprehensive Plan. We've had the consultant groups come down twice now, we've had a couple of community discussions, what's the next phase?

Darren Adame, Director of Engineering: By the end of June we'll have everything from Matrix and ready for City Council and the Planning Commission. That will be the last phase, which is a three week process.

City Attorney Malouff: Referring back to the issue on the streets, people do take advantage of the City. The catch twenty-two is that when there are obstructions out in the thoroughfare, (curb to curb), obstructions that are not removed in a timely manner by the City creates a liability for the City. So if we ignored the tree limbs that are out in the thoroughfare, we are in essence creating a liability for ourselves. If we pick them up, people are going to take advantage and take this as an opportunity for somebody else to do their work. The bottom line, the City doesn't have much choice other than to remove obstructions that exist in the thoroughfare.

3. William Macdonald, 706 Raton Avenue: I'm trying to figure out if we can go ahead and deal with the nuisance barking at 622 Raton. I have had continued problems with this because its been set aside by Mr. Malouff twice now I think. Rick tells me I should go and see the police, then what happens is, I would have to sign a complaint. I would then ask Mr. Malouff what are you going to do with the complaint. Is he going to process it and bring it to the court or not?

City Attorney Malouff: Mr. Macdonald's comments are incorrect. There is currently a complaint outstanding against the owner of the dog at 622 Raton. In addition to that, there are administrative actions being taken unbeknownst to Mr. Macdonald. Coincidentally, there are violations pending against him. So there are a lot of things that is going on here that are not correctly stated by Mr. Macdonald.

William Macdonald: So you are moving forward with the nuisance barking at 622 Raton?

City Attorney Malouff: As I've indicated to you Mr. Mayor these are matters that are pending.

City Manager Klein: Now which of the three dogs are you complaining about?

William Macdonald: This one that have continued not to deal with the nuisance barking. They need help to figure out they need to deal with it because they're not dealing with it on their own. Unfortunately, I have tried to keep open communication with my neighbors. If my neighbors are not wanting to have civil communications with me than my only resort is to go to the police. Unfortunately that's how it played out. I'm basically a civil person and come here to council. I'm not that much different when I talk to people at their homes. I'm respectful towards them. They aren't willing to engage in civil discourse then my only recourse is to take it to the police and get the owner to deal with the nuisance barking. I'm the one who lives there but Rick and Phil both know about it. It's distant from where they live. I've seen people checking out only really briefly. The problem with 622 Raton is that it turns into every five minutes that the dogs barking. It's a day in, day out nuisance barking. It really is a problem or me.

4. Tracy Taullie, 4 College Ct and Martha Mondragon, 423 Lacey Ave: This is the only residence on this street, everything else is pretty much business. She's just inside the City limits. She has recently gotten a summons that stated that she needs to get rid of five of her animals. There's an ordinance that says you can only have a maximum of three animals in the City of La Junta (cats and dogs). I would be surprised if a lot of people were even aware of this ordinance. Mrs. Mondragon has been a good citizen of the City of La Junta for over sixty years; she's lived at that residence for 58 years. She does have eight dogs. Four of them she's had for six to ten years. The last four that she got she got three in a half years ago. She takes very good care of these dogs. They live in the house with her, they have a very large fenced area and get plenty of exercise. She does have a couple of the businesses around her that are willing to sign letters that the dogs are not a nuisance or an issue at all. Normal dogs do bark when things are going on around them then they settle

down. Now barking for almost twenty minutes like this gentleman said I can see to be a nuisance. What we're hoping is that maybe there is some way to grandfather her in. The law is very difficult to find. I've been here practicing sixteen years and I have never had this come up as an issue for a client. I had no idea La Junta had an ordinance on the number of dogs you could have. The ordinance isn't even in your Municipal Code, it's hidden in your Zoning Code. These animals are not a nuisance to others and haven't been for years so she can get grandfathered in. She's willing to not get any more animals. As they die off, she's not going to get more. If you're not able to do this, she is more than willing to leave La Junta than to give up her animals because they're her family. That's like asking her to pick one of her kids to give away.

Martha Mondragon: My dogs are rescue dogs that came to my yard. I do everything for my dogs. They are healthier than some children in this town.

Tracy Taullie: I just feel bad for her. She came in crying because they've actually been coming by and filming her dogs. I assume it's trying to get footage on the noise ordinance. I just didn't think this is what we want for our citizens. We want to keep our good law abiding citizens in La Junta. The last thing you should want is for them to feel like they have to move out of the City for something like this. If this is something we're going to start enforcing, we need to make sure that all of the citizens of La Junta are aware of it. You can't really prosecute one person if you're not willing to prosecute them all.

Mayor Horner: At this point, let us take it under advisement. We will have this as one of our topics at our next work session. I appreciate your input and what's at work. Part of the problem is, some of these ordinances have been on the books for years but we never enforced them. We're having a lot of people coming in now saying that we're tired of having all these ordinances and nothings being done about it. So, we're beginning to get things done and these are some of the issues that we're going to have to work out.

Council Member Pruyn: I have a question, do we know if its complaint based or if it's just because we've hired a new Code Enforcement Officer. So its not complaint based?

City Manager Klein: We're working on different blocks of the community with junk vehicles and enforcing the ordinances.

Council Member Pruyn: I don't think it's a problem to have a later discussion about it but my worry is for her and her animals now.

Martha Mondragon: I also want to say that I would rather move from La Junta than euthanize my dogs.

Council Member Pruyn: And we don't want that.

Martha Mondragon: It would be very sad in my life. I also take care of my brother who is physically disabled for the last thirty-one years. They are my life.

Council Member Pruyn: I have to vouch for you because you probably don't remember that my husband and I did windows for you. And she does take care of her animals. My personal opinion is it's not so much about quantity but the care. Maybe the ordinance needs to be revisited.

City Attorney Malouff: I respect everything that you've said. I hope that everyone appreciates what a lousy circumstance this is because when ordinances are created, you're going to have people who obey the law and people who try to take advantage. Council's direction to City Management was to hire another Code Officer and enforce the code. Unfortunately, that in some cases is going to step on peoples toes. Maybe some people get caught in the cross fire. Technically there's a violation. The Code Enforcement Officer looks at the rules and writes the ticket. You have on one hand people saying, "strict enforcement of the ordinance"; on the other hand, you have somebody saying,

“ignore the ordinance.” The Code Enforcement Officer takes direction from the Council. There’s the possibility of a kennel license.

Tracy Taullie: I was going to ask that if she couldn’t do that, could she apply for an animal sanctuary?

City Attorney Malouff: Those are all options. She should explore all of her options. She may fit into one of those categories. The government doesn’t have the solution to everyone’s problems.

Council Member Pruyn: My thing is, if we move over to the cats which are what I have.

Tracy Taullie: That’s the thing too, your ordinances does not separate them. There are a lot of cats.

Council Member Pruyn: If a homeowner is willing to take in those cats, then those animals don’t become a nuisance and they don’t go live under your porches, which is what they do when no one takes them in. I know people that have ten cats that live on their property.

Tracy Taullie: As far as I know, the City isn’t willing to deal with the cats. I really do think the ordinance needs to be re-addressed and somewhere where people can actually find it. I think this would need to be put into the paper that you’re going to start enforcing these codes.

Mayor Horner: In the next two to three weeks we’ll get back to her and convey what has been decided.

5. Doris Gumke, 1312 Adams Avenue: We do animal rescue here in town. Cats are everywhere. We take cats in, spay or neuter them, give them their shots, snip their ear so you know they will no longer contribute to the problem. We are working with the animal assistance out of Denver. We are also working with groups out of Colorado Springs. On May 15, 16, 17 and 18 we will be working together on trapping feral cats. All will be fixed, vaccinated and its free to us.

NEW BUSINESS

- A. **Temporary Modification of Premises – Tavern Liquor License for Red Dog Revisited, LLC d/b/a Red Dog Revisited, 709 E. 3rd Street for the following days: June 10, June 24, July 8, July 22, and August 5 from 7:00 a.m. until Midnight.** The tavern owner wants permission to use the parking area in front of the tavern on five different dates throughout the summer. The application is in order and has been reviewed by City supervisors for compliance with City and State codes and in particular the City Zoning Ordinance.

MOTION TO GRANT TEMPORARY MODIFICATION OF PREMISES TO RED DOG REVISITED, 709 E. 3RD STREET: Goodwin

SECOND: Pruyn

DISCUSSION: None

VOTE: The motion carried 6-0 (Vela absent)

- B. **Tourism Board Recommendations for Funding.**
 1. **\$300.00 to Inspiration Field for Cinco De Mayo marketing.**

MOTION TO APPROVE THE EXPENDITURE OF TOURISM TAX REVENUE IN THE AMOUNT OF \$300.00 TO INSPIRATION FIELD FOR CINCO DE MAYO MARKETING: Pruyn

SECOND: Velasquez

DISCUSSION: None

VOTE: The motion carried 6-0 (Vela absent)

2. \$825.00 to Visit Denver for membership and brochure distribution.

MOTION TO APPROVE THE EXPENDITURE OF TOURISM TAX REVENUE IN THE AMOUNT OF \$825.00 TO VISIT DENVER FOR MEMBERSHIP AND BROCHURE DISTRIBUTION:
Goodwin

SECOND: Pruyn

DISCUSSION: None

VOTE: The motion carried 6-0 (Vela absent)

3. \$700.00 to Lamar Ledger for advertisement in Discover SE Colorado Magazine.

MOTION TO APPROVE THE EXPENDITURE OF TOURISM TAX REVENUE IN THE AMOUNT OF \$700.00 TO LAMAR LEDGER FOR ADVERTISEMENT IN DISCOVER SE COLORADO MAGAZINE: Pruyn

SECOND: Velasquez

DISCUSSION: None

VOTE: The motion carried 6-0 (Vela absent)

4. Up to \$1500.00 to SOCO Tourism Summit for Visit La Junta Welcome Reception sponsorship.

MOTION TO APPROVE THE EXPENDITURE OF TOURISM TAX REVENUE IN THE AMOUNT OF UP TO \$1500.00 TO SOCO TOURISM SUMMIT FOR VISIT LA JUNTA WELCOME RECEPTION SPONSORSHIP: Pruyn

SECOND: Velasquez

DISCUSSION: None

VOTE: The motion carried 6-0 (Vela absent)

C. A Resolution Concerning the Restatement and the Amendment of the City of La Junta Police Department Money Purchase Pension Plan (2017). Resolution No. R-10-2017 was presented for Council's consideration as follows:

WHEREAS, the City of La Junta, (hereinafter referred to as "City") maintains a defined contribution Police Department Money Purchase Pension Plan for certain eligible employees; and

WHEREAS, the Plan is named the "City of La Junta Police Department Money Purchase Pension Plan", hereinafter referred to as the "Plan";

WHEREAS, the City wishes to restate the Plan, to include various changes which are required or which may be permitted by applicable current tax laws;

WHEREAS, said changes are as follows:

- A. The Plan Administrator is the City of La Junta, with the Chief of Police acting as the Authorized Signee. The current Chief of Police is Todd Quick.

- B. The Plan Provider is designated as "Mass Mutual Financial Group".
- C. The Third Party Plan Administrator is "Goldleaf Partners Employer Services".
- D. The local plan broker/dealer is designated to be "Edward D. Jones" of La Junta, Colorado.
- E. The effective date will be as soon as possible but no later than July 31, 2017.

WHEREAS, after review, the City Council believes the changes to be appropriate to be made to the Plan; and

WHEREAS, the Plan Committee has approved the changes and has recommended that the City implement the changes;

NOW THEREFORE BE IT RESOLVED by the City Council that the Plan is restated and amended in the form set forth above.

MOTION TO ADOPT RESOLUTION NO. R-10-2017: Pruyn

SECOND: Eckhart

DISCUSSION: None

VOTE: The motion carried 6-0 (Vela absent)

D. Committee/Board Reports

1. Council Member Pruyn (Tree Board) – Arbor Day celebration will be May 19th at 10:00 a.m. at City Park.
2. Council Member Velasquez (AVRMC Board) – The financials were approved and we reviewed the annual business plan.

E. City Manager's Comments

1. Code enforcement going strong!

Council Member Pruyn: What bothers me about the animal one is that I think there's other things that take precedence. When we start getting into how many families, including myself, that have more than three animals, we're going to have this room more full than we did for the nursing home. So we can open that can of worms. I think taking her dogs is just overboard to me. That's just my personal opinion.

City Attorney Malouff: I agree with you to the extent that it feels overboard. The Code Enforcement Officers are just trying to do their job they were told to do. They have to try to find ways to time whether the dog is continuously barking or having been provoked or not. Part of the problem that we had with this one citizen is that all the Junior High kids walk by that fence line and the dog barks until that kid is out of sight. Communities have struggled with the concept of how many dogs to have. There's no good answer for that. You can decide to change the ordinance if that's what you decide to do. I'd be happy to do that as long as that's what the

majority of you want. Any ordinance that we have on code enforcement, I promise you, is going to raise hackles on somebody's neck.

Council Member Pruyn: But on the animal one, don't we have to go into their house to prove it? Whereas, if you have a junk car outside or stuff in your yard. If she put all her dogs in the house, would we have to go in the house to prove there are eight dogs?

City Attorney Malouff: If all the dogs were continually in the house, we wouldn't be here trying to enforce the ordinance because we couldn't prove it. The problem is that she's a responsible pet owner and that ordinance bites.

City Manager Klein: Most of those ordinances are written for 10% of the people and the other 90% have to live with it.

Council Member Pruyn: My question just was, depending on what the ordinance says, does it say you're going to go into someone's residence to find out if they're breaking an ordinance.

City Attorney Malouff: There are ordinances that allow us entry, like a health and welfare check. But, just to go count noses, no we won't enter.

Council Member Pruyn: That's what I wanted to know because that would help people get past that ordinance. Like me, I'm a cat owner, I can get past that very easily. She unfortunately cannot.

Council Member Velasquez: So we urged the City to hire another Code Enforcement Officer. My concern is that they're being told they have a quota. Is that true? That's the word out on the street. I am totally against that if that's the case.

City Manager Klein: We don't do quotas and have never done that. But we do have a new guy.

Council Member Goodwin: Rick in our last meeting the new Code Enforcement Officer was writing some thirty tickets a day.

City Manager Klein: Yes and he's just working his given sector. He's a go-getter. He's an ex-Marine. I have people tell me that Mickey's not doing his job; now I have a guy who's doing a great job. Well?

Council Member Velasquez: That's not fair to say that Mickey wasn't doing his job.

City Manager Klein: Mickey was doing his job. I guarantee it.

Council Member McKenzie: We're the ones who wanted things beefed up. If you look at our goals, the third one down is code enforcement.

Council Member Velasquez: That's not what I'm saying. It's come to my attention that they had a quota and if that's the case, I'm totally against that.

City Manager Klein: Darren, Bill have you ever heard that?

Engineering Director Adame: No sir.

Assistant City Manager Jackson: No sir.

City Attorney Malouff: I've got to defend the Code Officer. I feel sorry for him. It's hard with every police officer in the world but after time, they develop a street sense. Young cops, Code Enforcement Officers, they haven't had the time to develop it or become political about it.

They're just trying to do what they're told to do because it's their job. If there's a violation, here's a piece of paper and he goes on to the next. We're going to need to struggle with this as a group to give this poor guy some guidance. He shouldn't have to make those tough decisions. You guys are the ones who authorized Rick to hire another person. They did and found a guy who believes in what he's doing. We sure can't rap him on the knuckles for doing what we told him to do.

Paul Velasquez, 1313 Bradish Avenue: I know these ordinances have been on the books for a very long time. Were the new Code Enforcement Officers given any directive to have a ninety day moratorium on some of these ordinances? To give out a written warning before it gets to the summons level. That would be a great way for a new code enforcement guy to go out and meet the citizens.

City Manager Klein: That's what we do Paul, we give out the warnings.

Council Member Goodwin: When I got my thing on my carpet to keep the weeds down. I wasn't given notice. I was given five days to take care of this. A good thing this lady brought up is the Code Enforcement Officer said about the dogs not having a license. When did La Junta drop the dog licensing requirements? Everybody else still has them around but we're not required here in La Junta.

City Attorney Malouff: It's still on the books and enforced.

Council Member Pruyn: I know that Dr. Taullie had come in asking the City to put on a registration fee for your dogs so that they could keep track more. That would keep people from getting too many animals they aren't going to take care of and she said there was a lot of push back on that.

City Attorney Malouff: It's on the books. When somebody takes their dog to get vaccinated and then there's a second step where you go to the City and register it and get a dog license. If someone is cited for a vaccination violation, they are also cited for a registration violation.

Council Member Goodwin: What department do people go to get the City license?

City Attorney Malouff: The City Clerk.

Council Member Goodwin: She says that she doesn't have the tags.

City Manager Klein: No she doesn't. I recall there used to be when I first came.

Assistant City Manager Jackson: Jan used to give the license being she was the City Clerk. Then it went to when you take your dog or cat in for its vaccination, the veterinarian gives the City license.

Council Member Goodwin: My veterinarian has only given me for the shots and such, never has for City of La Junta.

Assistant City Manager Jackson: Dr. Krugman always gives me a City license for my dog.

Council Member Pruyn: If that's an ordinance, does Code Enforcement have to go and check to make sure every dog has a tag and a registration? So it seems that some things are being enforced and some are not.

Assistant City Manager Jackson: We haven't enforced the dog license. The only dog license we enforce is for vicious dog. And it's a large tag license that they have to wear.

City Attorney Malouff: Let me throw out one more thing just to show you the complexity of the issue. One of the citizens that appeared here tonight has been very vocal and very aggressive about one man's trash is another man's treasure. Jim brings up an important point here. His carpet is out there, Jim views it as treasure and the enforcement officer visioned it as trash. Then, there's a man who has an old broken down sofa on his porch and he goes out there and plops down there every night and takes a look at the sunset. That's not trash to him but one of his neighbors just complained that it's an eyesore. It doesn't matter which one of these ordinances you pick, you're just going to get blasted at every turn. I would implore you to, if you want strict enforcement, which is the mandate I think you last gave us, then you're going to have some tough moments here.

Assistance City Manager Jackson: The job of the young man doing the code enforcement is for compliance. We're not looking to penalize anybody. We're asking them to comply. That's why there's five days to remedy a situation rather than getting a ticket, a monetary fine.

Council Member Pruyn: But what will happen if she doesn't get rid of her dogs? Will we physically go in and take her dogs off that property or will the court go take her dogs?

City Attorney Malouff: She's going to get fined for it and in theory she could be fined every day into eternity. That's going to be tough if it gets to my level. We won't confiscate them yet, but that is an alternative eventually.

Assistant City Manager Jackson: It's probably a zoning issue as far as a kennel being allowed. There are remedies for that which is an application for a special permit through the Board of Adjustment. There's always a remedy, solution to the problem.

Council Member Goodwin: She's already threatening to leave. I'm one dog over. I won't get rid of one of my kids at all. I'll move out of the City limits. There are a lot of households that have a lot more than that.

Assistant City Manager Jackson: Most of the time, the Code Enforcement Officer is made aware of a situation based on a complaint.

Council Member Pruyn: The thing about your thirty some complaints is like he just goes door to door and tries to find something and then on to the next one. He's not like looking for things that are a problem in the community but actually going and searching out problems in the community. There is a different.

Council Member Velasquez: I am totally for enforcement. I think there needs to be consistency and we're not being consistent. My proposal would be to bring him back in and get a training plan together because I think the idea of going out there and making a repore with the community should be step one. You don't go out there and just give them a citation right off the bat. I don't think that's fair.

Assistant City Manager Jackson: The Chief and the Deputy Chief did take those people in and made them read the codes and actually trained them and went out with them. They've been given sectors so that they're not overlapping each other. So these guys are methodically going from this piece to the next piece.

City Manager Klein: The good news is that we're cleaning out sections of this community. It's making a difference.

Mayor Horner: I've heard from several people that say this new Code Enforcement Officer handles himself very professionally. They accept what he has to say but does handle himself in a gracious way.

Assistant City Manager Jackson: I can guarantee that the code officers do not and have not been given quotas.

City Attorney Malouff: If its important to know how many tickets have been entered, let's ask the Department of Public Safety to give us the pertinent information. For curiosity, if you want to find out if it was a complaint with this lady, we can find that out as well.

Council Member Eckhart: I would like to say, since I've started, the vast majority of people that come in and wanting something done about code enforcement, are talking about trees, weeds, cars, junk. This seemed to be the reason everybody was discussing the increase of code enforcement. Now we've thrown the dogs in there; whereas, I've only heard from one individual that's complained about dogs. Perhaps, what we need to do is give some kind of directive to focus on the things that the citizens are talking about which are the trees, weeds and the junk. Then we can readdress the rules regarding dogs and dissolve this issue from the enforcement officer.

City Attorney Malouff: You're the policy setting board. If you're judgment is to take the dog issue down to the lowest possible level and the junk vehicles to the highest possible level, I welcome that, if that's what you want. This body has to agree on that and that gives direction to the Police Department. That is certainly one solution.

MOTION TO MAKE A MORITORIAM ON THE ENFORCEMENT OR PROSECUTION OF ANIMAL RELATED VIOLATIONS, OTHER THAN COMPLAINT DRIVEN AND VICIOUS DOG ISSUES UNTIL DECEMBER 1, 2017: Goodwin

SECOND: Pruyn

DISCUSSION: There was no further discussion.

VOTE: The motion carried 6-0 (Vela absent)

- 2. Working on tree limb clean-up
- 3. KOA is celebrating their one year anniversary.
- 4. We had 220+ registrants for Mud-Sport

F. City Attorney's Comments

- 1. **CML/CIRSA Spring Outreach – May 4th from 5:30 – 7:00 p.m. at Senior Center.** Please keep this on your calendar. I can't talk about it enough!

G. Governing Body's Comments

MAYOR HORNER: The Mayor encouraged all of Council to look over the ARPA/City of Lamar settlement.

There being no further business, the meeting adjourned at 9:12 p.m.

CITY OF LA JUNTA

Lynn Horner, Mayor

ATTEST:

Melanie R. Scofield, City Clerk

RESOLUTION NO. R-~~14~~-2017

**A RESOLUTION REGARDING SERVICE PLAN FOR
LA JUNTA HEALTH SERVICE DISTRICT**

WHEREAS, the City Council (the “Council”) for the City of La Junta (the “City”), State of Colorado (the “State”), is vested with administering the affairs of the City, pursuant to State statutes; and

WHEREAS, pursuant to the provisions of the “Special District Control Act,” Title 32, Article 1, Part 2, C.R.S., a service plan for the proposed La Junta Health Service District (the “District”) was filed with the City on May 5, 2017 (the “Service Plan”); and

WHEREAS, pursuant to the provisions of Section 32-1-204.5(1), C.R.S., the Council considered this Resolution at a public meeting of the Council held at 7:30 p.m. on May 15, 2017; and

WHEREAS, both the District and the City will serve the same constituents, as they will have the same boundaries and taxpayers; and

WHEREAS, the Arkansas Valley Regional Medical Center Longer Term Care (the “Current Nursing Care Facility”) is currently in operation but will not be able to operate in its present configuration beyond 2018 due to financial difficulties; and

WHEREAS, the question of the District’s organization will be presented to voters along with request to impose a sales tax to potentially provide financial support for the operations of the Current Nursing Care Facility beginning as early as January 1, 2018 and to simultaneously pursue the financing, construction and equipping of a new long term care facility (the “New Nursing Care Facility”) to be owned and operated by the District under a new license from the Colorado Department of Public Health and Environment (the “CDPHE”); and

WHEREAS, the Council believes it is in the best interest of the City, its residents and taxpayers for the District to provide nursing home services to the community; and

WHEREAS, pursuant to Section 32-1-204.5(2), C.R.S., submission to the Council of a license or certificate of compliance issued by the CDPHE constitutes compliance with the information required to be included in a service plan pursuant to Section 32-1-202(2), C.R.S., and the criteria required to be presented to the Council pursuant to Sections 32-1-203(2) and (2.5), C.R.S.; and

WHEREAS, a copy of the license from the CDPHE for the operation of the Current Nursing Care Facility has been submitted to the City, which comprises the Service Plan of the proposed District; and

WHEREAS, the Council did on May 15, 2017, at a public meeting, review the license from the CDPHE for the Current Nursing Care Facility and take evidence establishing the jurisdiction of the Council to hear this matter; and

WHEREAS, the Council has fully considered the Service Plan and other evidence presented to it in this matter relating to the Service Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LA JUNTA, STATE OF COLORADO:

Section 1. The recitals of this Resolution are incorporated herein by reference.

Section 2. The Council hereby determines that all of the jurisdictional and other requirements of Section 32-1-204.5, C.R.S., have been fulfilled, including submission of a license from the CDPHE for the Current Nursing Care Facility, all requirements relating to the filing and form of the Service Plan and the form of approvals authorized herein.

Section 3. Based upon the information contained within the Service Plan and evidence presented to the Council at the public meeting, the Council hereby finds and determines as follows:

A. A current license from the CDPHE exists for the operation of the Current Nursing Care Facility;

B. Pursuant to Section 32-1-204.5(2), C.R.S., the Council has been provided with evidence satisfactory regarding each of the following:

(i) There is sufficient existing and projected need for organized services of the nature proposed in the Service Plan in the area to be serviced by the proposed District;

(ii) The existing services in the area to be served by the proposed District are inadequate for present and projected needs;

(iii) The proposed District is capable of providing economical and sufficient services to the area within its proposed boundaries;

(iv) The area to be included within the proposed District will have the financial ability to discharge the proposed indebtedness on a reasonable basis;

(v) Adequate services are not and will not be available to the area through the City, or other governmental organization, including special districts, within a reasonable time and on a comparable basis;

(vi) The facilities and service standards of the proposed District are or will be compatible with the facilities and service standards of the City and each municipality which is an interested party under Section 32-1-204(1), C.R.S.;

(vii) The Service Plan is in substantial compliance with the City's Master Plan;

(viii) The proposal is in compliance with the long-range water quality management plan for the area; and

(ix) The creation of the proposed District will be in the best interest of the area proposed to be served.

Section 4. The Service Plan of the proposed District shall be and is hereby approved.

Section 5. Upon organization of the District, it may provide immediate financial support to the Current Nursing Care Facility beginning January 1, 2018. The District will also be asked to reimburse the City for the District's organizational costs being paid by the City, so that the City does not have to curtail City services or reduce its reserves. The District shall simultaneously begin efforts to finance, construct and equip the New Nursing Care Facility, including obtaining a new license from the CDPHE, which will then be filed with the City as the Amended Service Plan of the District under Section 32-1-207(2)(a), C.R.S.

Section 6. The City Manager is hereby expressly authorized and directed to administer an effort to collect at least 200 signatures from taxpaying electors of the proposed District on the petition for organization of the District (the "Petition"), a copy of which is attached hereto as Exhibit A and incorporated herein by this reference. Upon gathering adequate signatures, the Petition shall be filed with the District Court of Otero County.

Section 7. The City Manager is further hereby expressly authorized and directed to take any and all actions necessary or appropriate to effectuate the provisions of this Resolution and the organizational process of the District, including, but not limited to, (i) assisting with preparation and filing of the Petition with the District Court of Otero County, (ii) serving as, or identifying a qualified individual to serve as, the designated election official for the District's organization and TABOR election, (iii) approving of the final form of the election questions, (iv) assisting with necessary filings and coordination with the Colorado Department of Revenue related to implementation of the District's proposed sales tax and (v) entering into an intergovernmental agreement with Otero County for the conduct of a coordinated election on November 7, 2017.

Section 8. The City Clerk is hereby directed to provide a certified copy of this Resolution to the City Manager to be included with the Petition.

Section 9. All previous resolutions, or parts thereof, in conflict with the provisions hereof, are hereby repealed to the extent of such conflict only.

Section 10. This Resolution, immediately upon its passage, shall be authenticated by the signatures of the Council and the City Clerk and sealed with the corporate seal of the City.

Section 11. This Resolution is necessary for the public health, safety and welfare of the citizenry of the City of La Junta, State of Colorado.

MOVED, READ, ADOPTED AND RESOLVED by the City Council of the City of La Junta, State of Colorado, at its regular meeting held the 15th day of May, 2017.

CITY OF LA JUNTA

Lynn Horner, Mayor

Attest:

Melanie R. Scofield, City Clerk

DISTRICT COURT, OTERO COUNTY, STATE OF COLORADO	
Address: Otero County Courthouse 13 West 3rd Street, Room 105 La Junta, CO 81050	
Phone Number: 719-384-4721	
IN RE THE ORGANIZATION OF LA JUNTA HEALTH SERVICE DISTRICT	
David A. Greher, #27311 Matt Ruhland, #36940 Collins Cockrel & Cole 390 Union Blvd., Suite 400 Denver, Colorado 80228-1556 Telephone: (303) 986-1551 Facsimile: (303) 986-1755 E-Mail: dgreher@cccfirm.com mruhland@cccfirm.com	
▲ COURT USE ONLY ▲	
Case No.:	
Div.: Ctrm.:	
PETITION FOR ORGANIZATION	

**TO: THE HONORABLE DISTRICT COURT IN AND FOR THE
COUNTY OF OTERO AND STATE OF COLORADO**

We, the undersigned taxpaying electors of the proposed La Junta Health Service District hereinafter described, present this Petition for Organization (this “**Petition**”) of a health service district, pursuant to and in accordance with the provisions of the “**Special District Act,**” Article 1 of Title 32, C.R.S., and in support of this Petition state:

1. The name of the proposed District is the “La Junta Health Service District” (hereinafter referred to as the “**District**”).
2. The District is proposed to be organized and to provide the services and to construct the facilities and improvements as outlined herein.
3. The type of services to be provided by the District are services authorized under the Special District Act for health service districts. The license from the Colorado Department of Public Health and Environment for the operation of Arkansas Valley Regional Medical Center Nursing Care Center (the “**Current Nursing Care Facility**”)

comprises the Service Plan of the District, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference. Upon organization, the District intends to obtain a new license from the Colorado Department of Public Health and Environment for a new nursing care facility (the “**New Nursing Care Facility**”) to be constructed, which license will then be filed with the City of La Junta, Colorado, as the Amended Service Plan of the District. Also filed with this Petition is the Resolution of the City Council for the City of La Junta, Colorado, approving the Service Plan, a copy of which is attached hereto as Exhibit B and incorporated herein by this reference.

4. Upon formation, the services, facilities and improvements which the District intends to provide include without limitation:

(a) **Health Service Improvements, Services and Facilities.** The District shall have the power and authority to establish, maintain, and operate, directly or indirectly through lease to or from other parties or other arrangement, public hospitals, convalescent centers, nursing care facilities, intermediate care facilities, emergency facilities, community clinics, or other facilities providing health and personal care services, including but not limited to facilities licensed or certified pursuant to Section 25-1.5-103(1)(a), C.R.S. and to organize, own, operate, control, direct, manage, contract for, or furnish ambulance service in the District, together with all necessary, incidental and appurtenant facilities, land and easements, and all extensions of any improvements to such facilities within and without the boundaries of the District and to provide any other improvements and services authorized under the Special District Act for health service districts.

(b) **Sales Tax.** Pursuant to Section 32-1-1003(5), C.R.S., the District shall have the power and authority, upon approval by the eligible electors of the District, to levy and collect a uniform sales tax throughout the entire geographic area of the District upon every transaction or other incident with respect to which a sales tax is levied by the State pursuant to the provisions of Article 26 of Title 39, C.R.S., excluding the sale of cigarettes.

5. The District anticipates financing, constructing, owning, operating and maintaining the New Nursing Care Facility. The total cost of the proposed public facilities, improvements and equipment to be financed by the District, are currently estimated to be approximately \$10,000,000 without including costs of financing, capitalized interest or organization. Until the New Nursing Care Facility is completed, the District may provide financial support to continue the operation of the Current Nursing Care Facility.

6. The District boundaries are identical to the boundaries of the City of La Junta, Colorado.

7. The sales tax revenues for the District's first budget year are estimated to be approximately \$1,200,000. The property tax revenues for the District's first budget year are estimated to be \$0.

WHEREFORE, Petitioners request that this Honorable Court enter such orders and decrees as may be necessary or proper so that the organization of the La Junta Health Service District and any ballot issues or questions necessary to implement the provisions of the Service Plan, and Article X, Section 20 of the Colorado Constitution, including but not limited to a new sales tax, may be submitted to the District electors at a public election and organized in accordance with law.

RESOLUTION NO. R-11-2017

**A RESOLUTION TO AUTHORIZE THE RECEIPT OF
REAL PROPERTY TO BE TRANSFERRED TO THE CITY**

WHEREAS, the City of La Junta has entered into an Agreement with SECOM for the swapping of multiple parcels of property in the City of La Junta, or in the Industrial Park of the City of La Junta; and

WHEREAS, the City Council has previously approved the Agreement between the City and SECOM; and

WHEREAS, the City Council specifically resolves to receive the below listed property;

NOW THEREFORE BE IT RESOLVED by the City Council as follows:

SECTION 1: That the City of La Junta agrees to accept the following real property when it is transferred by SECOM to the City of La Junta, pursuant to the terms of the parties' Agreement (as described above):

PARCEL NO. 1:

All that part of Lot 4, Block 12, Lofland Addition to the City of La Junta, Second Filing, lying West of the Atchison, Topeka and Santa Fe Railway Company Track No. 102, lying through, over and across said Block 12, as shown by the recorded plat thereof.

ALSO

Lots 1, 2, 3, 4, 5, 6, 7 and 8, Fairfax Place to the City of La Junta, as shown by the recorded plat thereof, in Otero County, Colorado.

PARCEL NO. 2:

A part of the SE/4 of Section 4, Township 24 South, Range 55 West of the 6th P.M., described as follows: Beginning at a point on the East boundary line of said Section 4, 1989.5 feet North of the Southeast corner of said Section 4 and running thence Westerly at an angle of 90° with said East boundary line of said

Section 4, 446 feet; thence Northerly and parallel to the said East boundary line of said Section 4, 208 feet; thence Easterly and at an angle of 90° with said East boundary line of said Section 4, 446 feet; thence South along said East boundary line of said Section 4, 208 feet to the point of beginning. Subject to a public highway along the East said of said land.

ALSO

A tract of land lying in the NE/4SE/4 of Section 4, Township 24 South, Range 55 West of the 6th P.M. and being more particularly described as follows: Beginning at the Northeast corner of said SE/4 of said Section 4, as monumented by a 3-1/2" brass cap set in concrete; thence S.88°17'38"W., along the North line of said SE/4, a distance of 602.0 feet, considering all bearings contained herein relative thereto; thence S.1°44'13"E., 416.8 feet to the Southeast corner of a tract of land recorded in Book 668 at Page 139, Otero County, Colorado records, which is the True Point of Beginning; thence S88°24'12"W., 158.43 feet to the Northwest corner of a tract of land recorded in Book 626 at Page 121, Otero County, Colorado records; thence S.1°31'47"E., 243.40 feet to the Southwest corner of the tract in Book 626 at Page 121; thence N.88°18'52"E., 304.02 feet along the South line of the tract in Book 626 at Page 121 to the West line of the Southeast Colorado Power Association property; thence N.00°45'48"W., 222.12 feet to the northwest corner of the Southeast Colorado Power Association property; thence N.89°16'12"E., 416.00 feet to the Westerly Right-of-Way of Colorado Highway No. 10; thence N.00°45'48"W., along said Right-of-Way 8.0 feet; thence S.89°16'12"W., 564.65 feet; thence N.1°44'18"W., 10.59 feet to the point of beginning. All corners monumented with a 5/8" rebar with a 1-1/2" aluminum cap LS 12103, in Otero County, Colorado.

PARCEL NO. 3:

Lots 1, 2, 3, 4, 5 and 6 in Block 12 in Lofland Addition to the City of La Junta, as shown by the recorded plat thereof,

AND

All that part of the South 80 feet of Block 4, Ohio Addition to the City of La Junta lying directly North of Lots 1, 2, 3, 4, 5 and 6, Block 13, Lofland Addition to the City of La Junta, as shown by the recorded plat thereof, in Otero County, Colorado.

SECTION 2: This Resolution is presented to satisfy title requirements.

RESOLVED this 15th day of May, 2017.

CITY OF LA JUNTA

Lynn Horner, Mayor

ATTEST:

Melanie R. Scofield, City Clerk

RESOLUTION NO. R-13-2017

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LA JUNTA, COLORADO APPROVING THE SETTLEMENT OF
CERTAIN LITIGATION BETWEEN THE CITY OF LAMAR AND THE ARKANSAS
RIVER POWER AUTHORITY**

WHEREAS, the City of La Junta is a party to that certain Organic Contract Creating and Establishing the Arkansas River Power Authority ("ARPA") as a Separate Governmental Entity dated October 24, 1979 (the "Organic Contract"). Pursuant to the Organic Contract, the City has appointed two representatives to serve on the Board of Directors of ARPA.

WHEREAS, the City of La Junta is also a party to that certain Agreement for the Supply of Electric Power and Energy to Municipal Members of the Arkansas River Power Authority dated December 13, 1983 ("Power Supply Agreement"), which requires all of the Member Municipalities of ARPA to purchase all of their wholesale electricity requirements from ARPA, over and above certain specified member-owned generation.

WHEREAS, in 2004, ARPA and the City of Lamar ("Lamar"), a Member Municipality of ARPA, executed a Joint Operating Agreement between the City of Lamar, Colorado, the Lamar Utilities Board, and the Arkansas River Power Authority for the Development of the Lamar Repowering Project and Operations and Maintenance in Support of the Lamar Repowering Project, executed November 23, 2004 (the "Joint Operating Agreement") for the purpose of jointly repowering Lamar's 25 MW natural-gas fired steam electric generation station known as "Unit 6", by the addition of a new coal-fired boiler, and additional steam turbine and generator and other equipment to increase its capacity to 44 MW, which was known as the "Lamar Repowering Project" ("LRP"). Pursuant to the Joint Operating Agreement, Lamar agreed to dedicate certain equipment from Unit 6, including the 25 MW steam turbine, electric generator, and associated equipment, to the LRP.

WHEREAS, also in 2004, Lamar and ARPA entered into a Lease Agreement Between the City of Lamar, Colorado and the Arkansas River Power Authority in Support of the Lamar Repowering Project executed December 13, 2004 (the "Lease Agreement"), pursuant to which ARPA leased certain land from Lamar for the construction of coal storage domes and coal handling equipment for use in connection with the LRP. ARPA subsequently constructed concrete

domes, conveyors, dust collectors and other coal handling materials and equipment on the property subject to the Lease Agreement.

WHEREAS, in order to facilitate the permitting of the LRP, Lamar, through its electric utility, Lamar Utilities Board d/b/a Lamar Light and Power, voluntarily surrendered the air permit for Unit 6. As a result, Unit 6 was rendered in operable.

WHEREAS, the LRP has failed due to the inability of the boiler to meet emissions requirements under the terms of its air permit. As a result, ARPA has elected to pursue the sale of the LRP equipment to third parties, and ARPA does not intend to operate the LRP again in the future.

WHEREAS, in light of the failure of the LRP, Lamar no longer has an operating power plant, and has been deprived of the jobs previously provided by the existence of an operating power plant in its community.

WHEREAS, on or about July 14, 2014, Lamar commenced an action against ARPA in the Prowers County, Colorado District Court, case number 2014-CV-00031, asserting various breaches of contract against ARPA under the Organic Contract, Power Supply Agreement, Joint Operating Agreement and Lease Agreement (the "Litigation"), in which Lamar sought to terminate its relationship with ARPA and to recover damages for the loss of its Unit 6 power plant facilities.

WHEREAS, the loss of Lamar's participation in ARPA would have devastating consequences on the remaining ARPA communities, who would bear the additional debt service for the bonds issued to finance the LRP, which would be included in ARPA's wholesale electric rate.

WHEREAS, on February 22, 2017, ARPA and Lamar participated in mediation in Pueblo Colorado in an effort to resolve all disputes related to the LRP, including all claims that were asserted or could have been asserted in the Litigation. The parties reached a settlement in principle during that mediation, pursuant to which, among other things, Lamar agreed to continue to purchase its electric power and energy requirements from ARPA and ARPA agreed to pay Lamar the sum of One Million Dollars (\$1,000,000.00) together with monthly compensation for the loss of Unit 6 in the sum of Thirty-Three Thousand, Three Hundred Thirty- Three and 33/100 Dollars (\$33,333.33) per month for 26 years from the effective date of the settlement, in exchange for

a dismissal with prejudice of the Litigation, each party to bear its own costs and attorneys fees.

WHEREAS, ARPA is concurrently seeking to refund or refinance the bonds issued for the construction of the LRP, which refunding or refinancing is expected to more than offset the anticipated payments to Lamar under the settlement. However, such refunding or refinancing is unlikely to be possible unless the Litigation is promptly dismissed.

WHEREAS, continued litigation of the dispute with Lamar will cost the ratepayers of the City of La Junta, a significant amount, as these legal fees and expenses would be passed along to the ARPA Member Municipalities as party of ARPA's wholesale electricity rate. Further, litigation of the dispute with Lamar would entail risk of an adverse result, as success cannot be guaranteed in any litigation.

WHEREAS, ARPA has requested that the City of La Junta give its approval of the proposed settlement with Lamar.

WHEREAS, the settlement between ARPA and Lamar will not be effective unless all of the ARPA Member Municipalities approve said settlement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL THAT:

1. The City Council of the City of La Junta, having reviewed the proposed settlement terms and being fully informed of the premises and reasons upon which settlement is based, hereby determines that the settlement is in the best interests of the electric ratepayers of the City of La Junta. The settlement agreement is hereby APPROVED.
2. The City of La Junta's representatives on the ARPA Board of Directors are hereby authorized and directed to vote to approve the proposed settlement between Lamar and ARPA and to take such steps as may be necessary to give force and effect to its terms.

PASSED AND APPROVED this 15th day of May, 2017.

CITY OF LA JUNTA

Lynn Horner, Mayor

ATTEST:

Melanie R. Scofield, City Clerk